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January 26, 2024

VIA ECF:

Judge Arun Subramanian
United States District Court
Southern District of New York
500 Pearl Street, Courtroom 15A
New York, NY 10007

Re: *Kyndra Frazier v. FCBC Community Development Corporation and Michael Walrond*

SDNY Case No. : 1:22-cv-05270

Our File No. : 420-23791

Dear Judge Subramanian:

We represent Defendants, *FCBC Community Development Corporation* and *Michael Walrond*, in the above-referenced matter. We submit this correspondence to respectfully request that the pre-trial conference, currently scheduled for February 5, 2024, and the trial for this matter, currently set to commence on February 20, 2024, each be adjourned for a period of at least 30 days from their current dates. The purpose of this request is to avoid significant prejudice being imposed upon Defendants, based on Plaintiff's overt delays in preparing the necessary joint pre-trial materials.

On October 10, 2023, this Court issued an Order setting trial to begin on February 20, 2024. **Dkt 46**. On December 12, 2023, this Court then issued an order denying Defendants' motion for summary judgment. **Dkt 59**. As such, the current trial date for this matter, and the fact that this matter was indeed heading to trial, have been known to the parties for some time.

On January 10, 2024, this office sent correspondence to plaintiff's counsel regarding the joint pre-trial materials required in advance of the pre-trial conference, as we had not received any drafts of same from plaintiff, nor had plaintiff's counsel reached out to us regarding them in any way. Plaintiff's counsel did not respond.

On January 16, 2024, this office sent follow-up correspondence to plaintiff's counsel regarding these materials. At that point, Plaintiff's counsel responded that they would have initial drafts to us by January 18, 2023. Notably, however, this was only two business days before the initial submission deadline.

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On January 17, 2024, plaintiff's counsel reached out to this office again, but seeking our consent to an adjournment of the submission deadline to January 26, 2024. We provided our consent to same, and Your Honor subsequently granted this request. **Dkt 67** and **Dkt 68**.

On, January 22, 2024, this office finally received a copy of Plaintiff's proposed joint pre-trial order. We noted, however, that some of plaintiff's own portions of the order still remained incomplete. Plaintiff's counsel also indicated in their correspondence that they would not have the joint requests to charge, proposed verdict form, and proposed *voir dire* questions to us until the following day.

On Tuesday, January 23, 2024, however, plaintiff's counsel reached out to us again, saying that they still did not have copies of these materials ready, and expected instead to have them to us by Wednesday, January 24, 2024. It was at that point, only three days prior to the new submission deadline, that they also suddenly asked if we could **begin** the initial draft of the joint requests to charge. Despite it being the eleventh hour, we obliged this request.

We ultimately did not receive plaintiff's proposed verdict form, *voir dire* questions, or a pre-trial order with their sections fully completed until after 5:00pm on January 25, 2024, the night before they were due.

Based on this, we contacted plaintiff's counsel to discuss a joint request for an adjournment of the current trial calendar in this matter by 30 days. Notably, the extension would afford the parties the time required to discuss and draft appropriate joint pre-trial submissions. Plaintiff's counsel did not consent to this request, however, indicating that despite their own significant delays, they still wished to proceed under the current trial calendar. We noted that doing so would only have the effect of significantly prejudicing the Defendants.

For the reasons set forth herein, Defendants respectfully request that the pre-trial conference, currently scheduled for February 5, 2024, and the trial for this matter, currently set to commence on February 20, 2024, each be adjourned for a period of at least 30 days from their current dates.

We thank the Court for its time and consideration, and remain available should Your Honor require any additional information concerning this request.

Although the Court appreciates Defendants' counsel's efforts to work with Plaintiff's counsel, Defendants' counsel did not bring any issues to the Court's attention until the evening that the pretrial order was due. The Court will not move the date of the final pretrial conference or the date of the trial. The Court will grant the parties until January 31, 2024, to submit a joint pretrial order. **Plaintiff's counsel must work diligently with Defendants' counsel to promptly meet and confer on outstanding issues and to submit the required materials.**
SO ORDERED.



Arun Subramanian, U.S.D.J.
Date: January 29, 2024